

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

JAMES WILLIS BONDS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:11-cv-03615-RBP-JHE
)	
CO DONALD LUKIMA, et al.,)	
)	
Defendants.)	

ORDER

On August 21, 2013, the magistrate judge filed a report and recommendation, recommending Defendants' motion for summary judgment be granted as to the following claims and the claims be dismissed with prejudice: (1) Plaintiff's claims against Defendants in their official capacities for monetary relief; and (2) Plaintiff's Eighth Amendment failure to protect claims against Defendants Smith and Dixon for failing to protect him from allegedly being struck by Defendant Lukima. Doc. 52. The magistrate judge further recommended Defendants' motion for summary judgment be denied as to the following claims: (1) Plaintiff's Eighth Amendment excessive force claims against Defendants Smith, Dixon, and Lukima; (2) Plaintiff's Eighth Amendment excessive force claims against Defendants Smith, Dixon, and Lukima on the basis of qualified immunity; (3) Plaintiff's Eighth Amendment failure to protect claim against Defendant Smith for failing to protect him from Defendants Merchant, Dixon, and Lukima's alleged use of force; and (4) Plaintiff's Eighth Amendment failure to protect claim against Defendant Smith for failing to protect him from Defendants Merchant, Dixon, and Lukima's alleged use of force on the basis of qualified immunity.

Id.

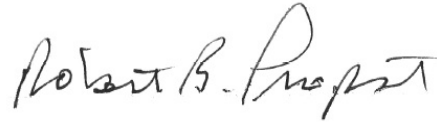
The parties were allowed fourteen (14) days to file written objections to the magistrate judge's recommendations. No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the magistrate judge's recommendation is ACCEPTED. Defendants' motion for summary judgment is GRANTED IN PART and DENIED IN PART. Defendants' motion for summary judgment is GRANTED as to the following: (1) Plaintiff's claims against Defendants in their official capacities for monetary relief; and (2) Plaintiff's Eighth Amendment failure to protect claims against Defendants Smith and Dixon for failing to protect him from allegedly being struck by Defendant Lukima. Accordingly, these claims are DISMISSED WITH PREJUDICE.

The motion is DENIED as to the following: (1) Plaintiff's Eighth Amendment excessive force claims against Defendants Smith, Dixon, and Lukima; (2) Plaintiff's Eighth Amendment excessive force claims against Defendants Smith, Dixon, and Lukima on the basis of qualified immunity; (3) Plaintiff's Eighth Amendment failure to protect claims against Defendant Smith for failing to protect him from Defendants Merchant, Dixon, and Lukima's alleged use of force; and (4) Plaintiff's Eighth Amendment failure to protect claims against Defendant Smith for failing to protect him from Defendants Merchant, Dixon, and Lukima's alleged use of force on the basis of qualified immunity.

Defendants Smith, Dixon, and Lukima are ORDERED to file an answer within twenty (20) days of the entry date of this order.

DONE this 25th day of September, 2013.

A handwritten signature in black ink, reading "Robert B. Propst". The signature is written in a cursive style with a large, looped initial 'R' and a trailing flourish.

ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE